

No. PD-0514-17
COURT OF APPEALS CAUSE NO. 10-15-00263-CR

FILED
COURT OF CRIMINAL APPEALS
9/22/2017
DEANA WILLIAMSON, CLERK

TO THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

FERNANDO SMITH

Appellant

v.

STATE OF TEXAS

Appellee

Appeal from Coryell County

APPELLANT'S FIRST MOTION TO EXTEND
TIME TO FILE APPELLANT'S BRIEF

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ATTORNEY FOR APPELLANT

TO THE HONORABLE COURT OF APPEALS:

COMES NOW, Appellant, FERNANDO SMITH, who files this First Motion for Extension of Time to File Brief and shows unto the Court as follows:

I.

Appellant's Brief is due on or before September 22, 2017.

II.

Appellant is asking for an additional thirty days to file his brief, which should make his brief due on or before October 23, 2017 (actual deadline falls on Sunday, October 22, 2017).

III.

Facts relied on to reasonably explain the need for an extension include the following:

1. Review record and perform legal research and work on brief filed September 6, 2017 in capital murder appeal, as well as client communication, in *Ballard v. State*, 03-17-00040-CR. (Work performed on August 23, 2017; August 24, 2017; August 25, 2017; August 28, 2017; August 29, 2017; August

30, 2017; August 31, 2017; September 1, 2017; September 5, 2017; September 6, 2017; September 8, 2017).

2. Review record and request extension of time in *Goodin v. State*, Cause No. 11-17-00073-CR. (Work performed on September 7, 2017; September 11, 2017; September 12, 2017; September 13, 2017; September 19, 2017; September 20, 2017).
3. Perform legal research, request extension of time, and begin drafting brief in *Kelley v. State*; Cause No. 10-17-00169-CR. (Work performed on August 28, 2017; September 18, 2017)
4. Post-hearing work related to appealing Chapter 64 granting of DNA testing as well as related record/judicial notice issue (*see Asberry v. State*, --S.W.3d--, 10-15-00032-CR, 2017 WL 218948, at *2 and n. 1 (Tex. App.—Waco Jan. 18, 2017, no pet.) (published)) in *State of Texas v. Bryan*; Cause No. 11-17-00236-CR. (Work performed on September 6, 2017; September 13, 2017; September 14, 2017; September 15, 2017).
5. Prepare for mediation in *Girly Bennett v. Susanna Allen*; Cause No. D-1-GN-15-005031, 98th District Court, Travis County,

Texas to occur on September 13, 2017, before cancelling mediation. (Work performed on September 8, 2017).

6. Work related to dependent administration (e.g., work related to hiring CPA for unpaid income tax issue; motion for leave to file suit to construe agreement to transfer document; client telephone conference) in *In the Estate of Charping, Deceased*; Cause No. 32,155; County Court at Law No. 1, Bell County. (Work performed on August 11, 2017; August 15, 2017; August 25, 2017; September 8, 2017; September 12, 2017; September 15, 2017; September 18, 2017; September 21, 2017).
7. Review opinion and send to client along with detailed explanation of petition for review process (and enclosing rules to help him) in *In the Matter of J.E.*, 03-16-00242-CV. (Work performed on August 25, 2017).
8. Review opinion and send to client by certified mail, return receipt requested along with detailed explanation of petition for discretionary review process (and enclosing rules and documents to help him), submit Rule 48.4 letter, and perform

and review some legal research related to appellate court's opinion in *Marshall v. State*; Cause No. 03-16-00504-CR. (Work performed on September 21, 2017).

9. Detailed client communication in *Diaz v. State*; 10-16-00218-CR. (Work performed on September 19, 2017).
10. Initial work (e.g., request record, file notice of appeal, docketing statement, etc., as necessary in each case) in *Harris v. State*, Cause No. 2016-1072-C1, 19th District Court, McLennan County, (Work performed August 25, 2017); *Johnson v. State*, Cause No. 75,505, 426th District Court, Bell County, Texas. (Work performed September 5, 2017; September 6, 2017; September 7, 2017 (jail visit); September 8, 2017; September 14, 2017); *In the Matter of D.L.*, 03-17-00491-CV (Work performed on August 25, 2017; September 1, 2017 (draft and submit First Motion for Extension of Time to File Brief)).
11. Tax foreclosure hearing as attorney ad litem on September 21, 2017 in the 169th District Court of Bell County, Texas.
12. Studying for Criminal Appellate Law Board Certification Exam (variously as time permits).

13. Miscellaneous work/work-related activity (e.g., unclaimed property in California, zoning/platting issue, demand letter, settlement letter offer, etc.) (performed variously over the course of the last month).
14. Time that lost the afternoon of September 1, 2017 for travel to San Antonio.
15. Time lost Labor Day, September 4, 2017.

IV.

No previous extension has been requested and granted in this matter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Appellant asks this Court to extend his time for filing his brief to thirty (30) days from the date his brief is due.

Respectfully submitted:

/s/ Justin Bradford Smith

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2017, a true and correct copy of Appellant's First Motion for Extension of Time to File Brief was forwarded to the counsel below by email and/or eservice:

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